



ADMINISTRATIVE OFFICE  
OF THE COURTS

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EDUCATION DIVISION / CENTER FOR  
JUDICIAL EDUCATION AND RESEARCH

FALL 2003

CALIFORNIA  
CONTINUING JUDICIAL  
STUDIES PROGRAM

NOVEMBER 2–7, 2003

EMBASSY SUITES HOTEL ♦ SANTA ANA

APPLICATION DEADLINE: SEPTEMBER 19, 2003

## AN INVITATION FROM THE CHIEF JUSTICE



August 22, 2003

Dear Colleagues:

I am very pleased to invite you to attend CJER's Fall 2003 Continuing Judicial Studies Program, from November 2–7, 2003.

This year's judicial planning committee, chaired by Judge Gary S. Austin, has designed an excellent curriculum. The fall program features courses on criminal law, juvenile law, literature, mediation, and a new course for experienced probate judges entitled "Advanced Probate."

Many of your experienced colleagues will serve as faculty members for this unique and innovative program. Education remains a high priority for the Judicial Council, and I hope that you will find the time in your busy schedules to attend.

With best wishes and personal regards,

Sincerely,

RONALD M. GEORGE  
Chief Justice of California



## CONTINUING JUDICIAL STUDIES PROGRAM PLANNING COMMITTEE 2002–2003



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Superior Court of Los Angeles County

ANNOUNCING THE FALL 2003

# CALIFORNIA CONTINUING JUDICIAL STUDIES PROGRAM

NOVEMBER 2–7, 2003 • EMBASSY SUITES HOTEL, SANTA ANA

The California Continuing Judicial Studies Program (CJSP) is an intensive, one-week program created to meet the special educational needs of experienced judges. It is a state-funded program that is conducted four times per year. To date, over 7,250 judges have attended. The original planning committee, chaired by the late Justice Allen E. Broussard, determined not only to present advanced subjects for experienced judges but also to employ innovative methods of adult education. Beginning with the premise that experienced professionals learn best from each other, the planners replaced the traditional lecture-and-panel format with a design based on continuous interaction between faculty and participants. This highly interactive design is enriched with input from social and behavioral scientists and other experts. Small group seminars limited to 18 to 20 participants are the key to the CJSP format. All seminars are led by a team of judges, each expert in his or her field, and each trained by a specialist in adult education to use a variety of learner-centered teaching methods. The seminar approach provides a forum for judges to share their professional experience.

## PROGRAM OBJECTIVES

CJSP fulfills three major educational needs of experienced judges:

- The need to prepare for new assignments.
- The need for periodic, comprehensive review of both substantive and procedural law.
- The need to reexamine judicial philosophies, attitudes, and work habits; renew judicial perspectives; and revitalize the dedication to public service.

CJSP also serves to:

- Explore new methods of handling court proceedings.
- Promote uniformity in judicial practice and procedure in California courts.
- Enhance the judicial skills needed to cope with the increasing complexity of legal issues and court proceedings.

## CURRICULUM

(All courses will end on Friday at 3:00 p.m. unless otherwise indicated.)

- Selected Criminal Law Topics\* (Monday to Wednesday)
- Death Penalty Trials (Thursday and Friday)
- Juvenile Dependency Overview (Monday to Wednesday)
- Juvenile Delinquency Overview (Thursday and Friday)
- Advanced Probate (Monday to Wednesday noon)
- Mediation: A Skills-Based Program (Monday to Friday)
- Literature and Judicial Reasoning (Monday to Friday)

\*Will attend a General Course on Wednesday

## GENERAL COURSE (Wednesday)

- Building Trust and Confidence Through Communication

## **ELIGIBILITY**

All California trial and appellate court judges and commissioners who sit on a regular court assignment and retired judges who sit on court assignment and have received prior approval from the AOC Assignments Unit, are invited to apply for admission to the courses offered in this program.

To be admitted, a judicial officer applicant should have served at least two years on the bench and is required to have attended the B.E. Witkin Judicial College of California. These requirements are waived for appellate court judges. Judges who have not attended CJSP within the last two years will be given priority.

In selecting participants, the CJSP Judicial Planning Committee will consider the following criteria:

- Date of receipt of application
- Years of judicial service
- Assumption of new judicial assignment
- Course preference
- Attendance at prior CJSP sessions
- Geographical balance
- Year the applicant attended the B.E. Witkin Judicial College of California

Probate examiners and probate attorneys are invited to apply for the Advanced Probate course only and will be accepted on a space available basis.

## **ATTENDANCE AND COURSE SELECTION**

In general, classes meet from 8:30 a.m. to 12:00 noon and from 1:30 to 4:45 p.m. Courses will end by 3:00 p.m. on Friday. Participants must attend all segments of the course in which they enroll, and may not attend selected portions of another course that runs concurrently.

The judicial assignment courses for trial court judges and commissioners are divided into several specialties centering on major court duty assignments. The juvenile dependency and delinquency law overviews are designed for judges and commissioners who are new to juvenile assignments; the literature, mediation, probate, and criminal law courses are designed for more experienced judges and commissioners.

## **FACILITIES AND COSTS**

The Fall 2003 CJSP will be conducted at the Embassy Suites Hotel Santa Ana (Orange County Airport North), which provides an excellent atmosphere for this intense educational experience. Classrooms and restrooms are wheelchair accessible.

The Embassy Suites Hotel offers a special group rate of \$110 per night for single and double occupancy. You will receive complete lodging and meal information upon acceptance of your application to attend the program. If State funds are available, the AOC will pay the hotel directly for the sleeping room (up to \$110) and group meal costs for justices, judges, commissioners, referees, court employees, and assigned judges who attend the entire course in which they are enrolled. Further information regarding these new procedures, including certain conditions and exceptions, will be included in material that will accompany your confirmation of acceptance.

It will be the responsibility of all attendees to cover the costs of travel (airfare, mileage, parking, shuttle, etc.). Trial court attendees will seek reimbursement from their court, while appellate court attendees' and assigned judges' travel costs will be reimbursed by the AOC (travel claims will be provided at the program). No charge is made for tuition or program materials.

Course materials will be available only to program participants, and participants will receive only the materials for the courses in which they enroll. Some courses may require readings in books not published by CJER that participants may be required to purchase.

## HOW TO APPLY

You must apply online. Please complete and submit the online application form by September 19, 2003. Participants are accepted on a first-come, first-served basis, and some courses fill before the application deadline. Late applications will be considered only if space is available. You will receive an e-mail confirming that your application has been received, but you will not be notified of your acceptance into your course preference until the week following the application deadline. Applications may not be submitted by telephone for this program. Also, please notify CJER immediately if you are unable to attend the program after submitting an application. Frequently, courses have waiting lists of judges who can attend the program if given adequate notice.

You should also immediately secure approval from your presiding judge or supervisor to attend the program. Attendance at CJSP is not deemed vacation time if it accords with the court's attendance plan and is approved in advance by the presiding judge.

To apply online, go to the [CJSP registration Web site](#).

## FUTURE PROGRAMS

Upcoming CJER programs can be viewed at the calendar Web site:

<http://www2.courtinfo.ca.gov/cjer>.

For further information, call CJER at 415-865-7745.

## MCLE CREDIT

This activity has been approved for Minimum Continuing Legal Education credit in the amount of the number of hours set forth by course below, of which a certain number of hours will apply to elimination of bias credit.

CJER certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Bar of California governing minimum continuing legal education.

| COURSE   | APPROVED<br>NUMBER<br>OF HOURS | NUMBER OF HOURS<br>APPLIED TO<br>SPECIAL CATEGORY |
|--|--------------------------------|---|
| Selected Criminal Law Topics                           | 18.75                          |   |
| Death Penalty Trials                                   | 11.00                          |   |
| Juvenile Dependency Overview                           | 18.75                          |   |
| Juvenile Delinquency Overview                          | 11.00                          |   |
| Mediation: A Skills-Based Program                      | 29.75                          |   |
| Advanced Probate                                       | 15.75                          |   |
| Literature and Judicial Reasoning                      | 29.75                          |   |
| Building Trust and Confidence<br>Through Communication | 6.25                           | 6.25 <sup>B</sup>                                 |

B = elimination of bias

## SCHEDULE OF COURSES

| MONDAY<br>NOVEMBER 3<br><br>AM                      PM |  | TUESDAY<br>NOVEMBER 4<br><br>AM                      PM |  | WEDNESDAY<br>NOVEMBER 5<br><br>AM                      PM                             |  | THURSDAY<br>NOVEMBER 6<br><br>AM                      PM |  | FRIDAY<br>NOVEMBER 7<br><br>AM                      PM |  |
|--|--|---|--|---|--|--|--|--|--|
| Juvenile Dependency Overview                           |  |   |  |   |  | Juvenile Delinquency Overview                            |  |  |  |
| Selected Criminal Law Topics                           |  |   |  | Required General Course:<br>Building Trust and<br>Confidence Through<br>Communication |  | Death Penalty Trials                                     |  |  |  |
| Literature and Judicial Reasoning                      |  |   |  |   |  |  |  |  |  |
| Mediation: A Skills-Based Program                      |  |   |  |   |  |  |  |  |  |
| Advanced Probate                                       |  |   |  |   |  |  |  |  |  |

*Note:* Registration begins on Sunday, November 2.

Morning classes meet from 8:30 a.m. to 12:00 noon, and afternoon sessions meet from 1:30 to 4:45 p.m.

Friday classes end at 3 p.m. or earlier.

The faculty schedules 15-minute breaks in the morning and afternoon sessions.

# COURSE DESCRIPTIONS

## SELECTED CRIMINAL LAW TOPICS

### *Monday–Tuesday*

#### **PURPOSE OF COURSE:**

This course provides an opportunity to examine selected criminal law problems that occur in complex, high-profile felony cases and that are recurring causes of reversal on appeal.

The course will refresh existing knowledge and build on that knowledge to enhance the trial judge's ability to rule fairly, effectively, and accurately on complex issues. The course is open to judges with three or more years in a felony jury trial assignment who are sitting on, or will soon be presiding over, complex criminal trials.

#### **COURSE TOPICS:**

- Juror misconduct
- Scientific evidence
- Expert witnesses
- Sentencing
- Attorney misconduct and contempt proceedings
- Handling the media and media-related issues
- Personal and courtroom security

#### **AT THIS COURSE YOU WILL LEARN HOW TO:**

- Identify and respond effectively to juror misconduct
- Rule correctly on scientific and expert witness evidentiary issues
- Resolve complex sentencing issues
- Weigh your options of responding to attorney misconduct
- Conduct a contempt proceeding
- Accommodate the media without compromising a trial
- Enhance your safety and the safety of courtroom personnel

#### **FACULTY:**

Hon. Ronald Coen, Team Leader, Superior Court of Los Angeles County

Hon. Dennis Cornell, Court of Appeal, Fresno

Hon. Kazuharu Makino, Superior Court of Orange County

Hon. Allan Parachini, Superior Court of Los Angeles County

Hon. John "Jack" Ryan (Ret.), Superior Court of Orange County

Hon. John Wiley, Superior Court of Los Angeles County  
Deputy Paul Coblentz, Los Angeles County Sheriff's Department

## DEATH PENALTY TRIALS

### *Thursday and Friday*

#### **PURPOSE OF COURSE:**

Death penalty trials make special demands on judges. They require knowledge of a very specialized body of law and demand the use of a variety of specialized procedures.

Because of the high stakes involved, the attorneys tend to be more thorough and aggressive, sharply increasing the quantity of motion work before trial. The emotional context of the trials also increases the temperature of the courtroom and makes greater demands on the court's management skills. This intensive course will help judges become familiar with and keep up-to-date in this complex area. It will focus on issues that are most difficult, most specialized, and most likely to present a risk of mistrial or reversal.

#### **COURSE TOPICS:**

- Pretrial motions
  - Pro per defendants
  - Penal Code §190.3 motions
  - Typical "boilerplate" motions
- Trial issues
  - Jury selection
  - Special circumstances issues
  - Jury instructions
  - Penalty phase procedures
  - Victim impact evidence
  - Hung jury
- Postverdict procedures
  - Automatic motion to modify
  - Judgment of death and commitment
- Certification of record on appeal

#### **AT THIS COURSE YOU WILL LEARN HOW TO:**

- Rule on the usual pretrial motions
- Select the jury and rule on challenges
- Avoid common causes of mistrial
- Instruct the jury properly
- Rule on postverdict motions
- Render a judgment of death

#### **FACULTY:**

Hon. Ronald Coen, Superior Court of Los Angeles County

Hon. Michael Wellington, Superior Court of San Diego County

## JUVENILE DEPENDENCY OVERVIEW

### *Monday–Wednesday*

#### **PURPOSE OF COURSE:**

This course is designed to meet the requirements of Welfare and Institutions Code §304.7 and Standards of Judicial Administration §25.2(c), which mandate that all judicial officers newly assigned to hear juvenile dependency matters complete a training program on juvenile dependency law. The course examines all aspects of juvenile dependency law and procedure, including the philosophy underlying dependency law, applicable statutes, rules of court, case law, the redesign of the Child Welfare System, and the role of the judicial officer in juvenile court.



### **COURSE TOPICS:**

- Overview of dependency proceedings
- Glossary of terms, rules, statutes, and forms
- Progression and sequence of hearings
- Findings and orders for all hearings
- Confidentiality
- Time limits
- Continuances
- Reasonable efforts and services
- Mediation and settlement
- Detention hearings
- Jurisdiction hearings
- Uncontested hearings
- Advisements and waivers
- Evidentiary issues
- Disposition hearings—reunification services, visitation, and concurrent planning
- 6-, 12-, and 18-month review hearings
- Supplemental petitions and petitions for modification
- Permanency planning
- Hearings under Welfare and Institutions Code §366.26, including adoption, kinship, postadoption agreements, guardianship, and long-term foster care
- Cultural competency
- Attorney representation of parties
- Mental health: diagnosis and treatment
- Paternity
- Custody and visitation
- Reducing the adversarial nature of the proceedings

### **AT THIS COURSE YOU WILL LEARN HOW TO:**

- Conduct detention, jurisdiction, disposition, review, and permanency hearings
- Make appropriate findings and orders at each stage

### **FACULTY:**

Hon. Patricia Bresee (Ret.), Team Leader, Superior Court of San Mateo County

Hon. Harry Elias, Superior Court of San Diego County

Hon. Kristine M. McCarthy, Superior Court of Santa Clara County

## **JUVENILE DELINQUENCY OVERVIEW** *Thursday–Friday*

### **PURPOSE OF COURSE:**

This two-day course will introduce the judicial officer to all aspects of juvenile delinquency law and procedure, including the philosophy underlying delinquency law, statutes, rules of court, case law, and the judicial officer's role in juvenile court.

### **COURSE TOPICS:**

- Overview of delinquency proceedings
- Glossary of terms
- Relevant statutes, rules of court, and forms
- Progression and sequence of hearings
- Findings and orders
- Confidentiality
- Time limits

- Detention hearings
- Fitness hearings
- Jurisdiction hearings, including advisements and waivers
- Disposition hearings
  - Probation conditions
  - Placements
  - California Youth Authority
- Supplemental petitions and petitions for modification
- Proposition 21 issues
  - Deferred entry of judgment
  - Mandatory bookings (citation form)

### **AT THIS COURSE YOU WILL LEARN HOW TO:**

- Conduct detention, jurisdiction, disposition, and fitness hearings
- Make appropriate findings and orders at each stage

### **FACULTY:**

Hon. Patricia Bresee (Ret.), Team Leader, Superior Court of San Mateo County

Hon. James S. Odriozola, Superior Court of Orange County

## **ADVANCED PROBATE** *Monday–Wednesday (ending at noon)*

### **PURPOSE OF COURSE:**

This course is open to judicial officers experienced in a probate assignment, probate attorneys, and probate examiners, and will address the more complex issues relating to decedent estate administration, guardianships, conservatorships, and trusts. Enrollment is limited, and priority will be given to judicial officers. Probate examiners and probate attorneys will be admitted on a space available basis.

### **COURSE TOPICS:**

- General probate topics
  - Mediation of probate matters
  - Ex parte applications in probate
  - Contested probate accountings
  - Attorney fees
  - Problems with pro pers serving as fiduciaries
- Decedents' estates (Prob. Code, §8252)
  - No contest clauses (Prob. Code, §21300 et seq.)
  - Limitations on transfers (Prob. Code, §21350)
- Conservatorships
  - Compensation of private professional fiduciaries
  - Confidentiality issues in conservatorships under HIPPA
- Issues relating to minors
  - Guardianships
  - Custody considerations (Fam. Code, §3402 (c) and (d))
  - Status reports
- Mental health
- Trusts
  - The prudent investor rule (Prob. Code, §16045) in a bear market
  - Special needs, statute of frauds, and the funding of trusts and Glen P. Heggstad

### AT THIS COURSE YOU WILL LEARN HOW TO

- Review, hear, and rule on petitions to probate a decedent's estate, including admitting a will, reviewing of accountings, distributing assets of the estate, and closing the estate
- Review, hear, and rule on petitions to establish a guardianship or conservatorship
- Efficiently manage a probate calendar
- Control, rather than observe, the administration of probate, conservatorship, and guardianship estates
- Achieve maximum utilization of staff support
- Review, hear, and rule on petitions relating to trusts

#### FACULTY:

Hon. H. Ronald Hauptman, Team Leader, Superior Court of Los Angeles County  
(Additional faculty to be determined.)

## MEDIATION: A SKILLS-BASED PROGRAM

*Monday–Friday*

#### PURPOSE OF COURSE:

This is a practical course designed to teach judicial officers how to mediate litigated disputes. The recent surge in the popularity of mediation as a dispute resolution technique makes it imperative that judicial officers understand where mediation fits in the dispute resolution continuum and how to apply the technique to cases pending in their courts.

The course is premised on a nationally recognized course offered at The Straus Institute for Dispute Resolution at the Pepperdine University School of Law. Professor Peter Robinson designed this course specifically for judges who wish to mediate cases pending in their courts. Judges bring a special credibility to facilitated negotiations and are nearly always highly effective mediators. But it is critical that judges understand the process, how it works, and how to build and apply strategies that will resolve nearly every case they mediate. The Faculty is made up of nationally recognized scholars, professional neutrals, and judges who have successfully applied mediation techniques to pending cases. Participants will have the opportunity to interact with the Faculty and other students in practical, skills-building exercises. Space is limited to 35 participants.

#### COURSE TOPICS:

- Definition of mediation
- The continuum of dispute resolution processes
- Mediation styles
- Mediation as facilitated negotiation
- Mediation as a mixed-motive exchange
- Distributive bargaining
- Facilitating distributive bargaining
- Integrative bargaining
- Creativity in integrative bargaining
- Facilitating integrative bargaining

- Five stages of mediation
- Convening mediation
- Opening statements
- Structuring negotiations
- Facilitating communication
- Breaking through impasse
- Closing and resolution
- Managing emotions in mediation
- Managing attorneys in mediation
- Maintaining fairness and neutrality
- Conflicts and ethical issues
- How to install a mediation program in your court

#### FACULTY:

Hon. E. Jeffrey Burke, Team Leader, Superior Court of San Luis Obispo County  
Mr. Lee Jay Berman, The Institute for Mediation Studies, Los Angeles, CA  
Mr. Bryan Johnston, Atkinson Graduate School of Management, Salem, OR  
Mr. Eric Lindauer, Clark, Lindauer, McClinton, Todd & Kreuger, Salem, OR  
Mr. Randy Lowry, Straus Institute for Dispute Resolution, Pepperdine University School of Law  
Mr. Peter Robinson, Assistant Professor of Law, Pepperdine University School of Law  
Ms. Maureen Weston, Pepperdine University School of Law

## LITERATURE AND JUDICIAL REASONING

*Monday–Friday*

#### PURPOSE OF COURSE:

Oliver Wendall Holmes assumed a necessary connection between law and literature. Does such a connection exist today? What do we mean by the “art of judging”?

This one-week course explores judicial reasoning and obligation through the reading of great literature. It examines reasoning processes and schools of jurisprudential thought as they relate to specified classes of cases and various moral principles as they relate to judicial decision making. The course essentially asks: In hard cases, what is a judge to do?

Based on a former course entitled Jurisprudence II, this course uses literary works, forms, themes, constructs, and devices to raise questions central to the decision-making process. The first session, led by the judge-instructors, will review legal, philosophical, and literary principles. Subsequent sessions will be led by teams of student judges who present a literary work and conduct the class. This course does not require Jurisprudence I as a prerequisite, and judicial officers who have taken Jurisprudence II may attend (a substantial amount of reading material will be new).

#### COURSE TOPICS:

- The law as story (a literary approach to the law)
- The chain novel as a theory of adjudication

- The use of moral principles in judicial decision making
- Positive law and the “interior narrative” in dispute resolution
- Point of view in the law—listening to the whole story
- Market analysis as it relates to the notions of privacy, individuality, and exchange
- Social control and the law
- “Correct” interpretation
- The role of closure in the legal process
- Moral obligation and the “inside narrative” in judicial decision making

#### **At This Course You Will Learn How To:**

- Distinguish between an agreement based on rights and one based on interests
- Identify the judicial obligation in hard cases
- Determine the extent of judicial freedom to act within rules and the extent to which a decision may be logically entailed by precedent
- Determine whether the law is determinate or indeterminate—can there be more than one “right” answer to a question?

#### **FACULTY:**

Hon. Elliot Daum, Superior Court of Sonoma County  
 Hon. Conrad L. Rushing, Court of Appeal, San Jose  
 Hon. Elaine Watters, Superior Court of Sonoma County

## **GENERAL COURSE**

### **BUILDING TRUST AND CONFIDENCE THROUGH COMMUNICATION**

**Wednesday**

#### **PURPOSE OF COURSE:**

Based on the National Center for State Courts’ *How the Public Views the State Courts: A National Survey* (1999), this

new one-day course will look at how communication on and off the bench shapes public trust, perception, and confidence. When the court communicates its decisions or interacts with attorneys, parties to a case, and court staff, it sends a message about its beliefs and values. Participants in this course will practice effective strategies for courtroom communication with the goal of building public trust.

#### **COURSE TOPICS:**

- Active listening techniques
- The “National Survey”
- Effective communication
- Self-monitoring techniques
- Public expectations of the courts
- Cross-cultural communication
- Court culture

#### **At This Course You Will Learn How To:**

- Apply the research on public confidence and the courts to the day-to-day duties and responsibilities of judicial officers
- Identify and discuss the relationship between core values and public confidence
- Identify, evaluate, and discuss core values that guide behavior
- Identify subtle forms of communication that inadvertently create a perception of bias
- Demonstrate and practice active listening skills

#### **FACULTY:**

Hon. Ken M. Kawaichi (Ret.), Team Leader, Superior Court of Alameda County  
 Hon. Robert G. Taylor, Superior Court of Riverside County  
 Ms. Peggy Nagae, Total Diversity Management Consultants, Portland, OR  
 Ms. Janet Hamlin-Clinkscales, Manager, Human Resources and Organizational Development

## ABOUT CJER

The mission of the California Center for Judicial Education and Research, as the educational arm of the judicial branch, is to enhance the quality of justice by providing a comprehensive program of education services that reinforce the unique role of judicial officers and court staff, enhance decision-making skills, encourage uniformity in judicial procedure, and promote fairness, access, and equal justice for all.

## CJER GOVERNING COMMITTEE

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Superior Court of San Diego County  
California Judges Association  
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Hon. Richard D. Huffman  
Court of Appeal, San Diego

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